

REMARKS/ARGUMENTS

The Office Action mailed November 13, 2007, has been carefully reviewed and this paper is Applicant's response thereto. Claims 1-33 are pending. The Office Action indicated that the claims are subject to a three way restriction to Group I (based on Figures 1-5), Group II (Figures 6-7) and Group III (Figure 8). Applicant respectfully traverses the restriction requirement.

As an initial matter, and as previously noted, the restriction requirement is untimely. Substantial examination and prosecution of the pending claims has occurred. Therefore, there can be no serious burden on the Patent Office to continue the examining of the pending claims. Thus, at least one requirement of a restriction requirement has not been met. See MPEP 803 (requiring the examination of all the claims if it cannot be shown that there is a serious burden to examiner). The November 13, 2007 Office Action has ignored this previously made point, however if a restriction requirement is to be sustained this point must be addressed and a persuasive reason must be provided for why, after already being subject to extensive examination, the continued examination of the claims would suddenly pose a serious burden.

In addition, pending claims 1-28 are directed to an apparatus. Each of these apparatus claims would read on embodiments of Figures 1-5. As recognized by the Examiner, Figure 5 is an illustration of the light shield depicted in Figure 1, except provided in a different orientation so that additional details can be appreciated. The Examiner suggests that the light shield in Figure 5 fails to disclose a linear change in light blocking, however this is incorrect – the light shield depicted in Figure 5 is substantially the same configuration as the light shield depicted in Figures 6-8, thus the light shield in Figure 5 also shows the features discussed with respect to Figures 6-8. Applicant notes that the additional Figures 6-8 are provided so as to more clearly illustrate various features of an exemplary embodiment, rather than attempt to place all the features on a single Figure because placing all markings and labels on a single Figure would result in a Figure that is overly complex and confusing. In particular, Figures 5-8 illustrate substantially the same structure except that Figures 6-8 also show a light source. However, as the light source and the light shield are also shown in Figure 1, that cannot be a basis for the restriction. Consequentially, it does not appear possible to restrict the claims into groups based

on what is shown in the Figures as all claims 1-33 read on the embodiments depicted in Figures 1-5. Therefore, the restriction requirement does not appear to have a logical basis.

In summary, there has been no showing that examining the claims would be a burden to examiner at this late stage of prosecution. In addition, Applicant respectfully submits that the attempted restriction based on the Figures does not comport with the subject matter disclosed in the Figures. To the extent the restriction requirement is cognizable, Applicant elects Group I (Figures 1-5) with traverse and claims 1-33 are believed to read on Group I.

All issues having been addressed, Applicant respectfully requests reconsideration of the application and allowance of all pending claims.

Respectfully submitted,
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